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March 21, 2017

Sent via CM/ECF

Honorable Thérèse Wiley Dancks
U.S. District Court
100 S. Clinton Street
Syracuse, New York 13261

Re: James Deferio v. City of Syracuse, et al. (5:16-cv-00361-LEK-TWD)

Dear Judge Dancks:

We write to the Court regarding an issue that arose today in the deposition of Plaintiff in the above-referenced matter. During the course of his testimony, Plaintiff removed from his personal belongings a series of notecards that he asserted contain his hand-written notes and recollections made shortly after key events described in his Complaint.

Not only do Defendants believe that these notecards should have been previously produced by Plaintiff, but we note that Plaintiff exacerbated his failure to produce them by testifying with the assistance of the contents of the notecards. Plaintiff then refused Defendants the opportunity to inspect and copy the same cards. Plaintiff does not assert attorney-client privilege as to the contents of those cards as he indicated that he had not communicated the existence of these notecards to his attorneys, and were made prior to his retention of counsel relative to this action.

As Plaintiff's Counsel refuses to allow Defendants to inspect and/or photocopy these notecards, we respectfully request that the Court order Plaintiff to produce the same for our inspection and review, and that furthermore Plaintiff make no alterations or revisions to said notes, as Plaintiff himself attempted to do after the close of today's deposition.

Thank you for your review of this submission and request.

Respectfully,

John A. Sickinger, Esq.
Senior Assistant Corporation Counsel
Federal Bar Roll No. 513595

JAS/tml

CC: Mark A. Mangini, Esq. (via CM/ECF filing)
Nathan W. Kellum, Esq. (via CM/ECF filing)
Todd M. Long, Esq. (via CM/ECF filing)